

U.S. House of Representatives  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, DC 20515

JAMES A. LEACH, IA  
MARGE ROUKEMA, NJ  
Vice Chair  
DOUG BEREUTER, NE  
RICHARD H. BAKER, LA  
SPENCER BACHUS, AL  
MICHAEL N. CASTLE, DE  
PETER T. KING, NY  
EDWARD R. ROYCE, CA  
FRANK D. LUCAS, OK  
ROBERT W. NEY, OH  
BOB BARR, GA  
SUE W. KELLY, NY  
RON PAUL, TX  
PAUL E. GILLMOR, OH  
CHRISTOPHER COX, CA  
DAVE WELDON, FL  
JIM RYUN, KS  
BOB RILEY, AL  
STEVEN C. LATOURETTE, OH  
DONALD A. MANZULLO, IL  
WALTER B. JONES, NC  
DOUG OSE, CA  
JUDY BIGGERT, IL  
MARK GREEN, WI  
PATRICK J. TOOMEY, PA  
CHRISTOPHER SHAYS, CT  
JOHN B. SHADEGG, AZ  
VITO FOSSELLA, NY  
GARY G. MILLER, CA  
ERIC CANTOR, VA  
FELIX J. GRUCCI, JR., NY  
MELISSA A. HART, PA  
SHELLEY MOORE CAPITO, WV  
MIKE FERGUSON, NJ  
MIKE ROGERS, MI  
PATRICK J. TIERI, OH

JOHN J. LaFALCE, NY, RANKING MEMBER  
BARNEY FRANK, MA  
PAUL E. KANJORSKI, PA  
MAXINE WATERS, CA  
CAROLYN B. MALONEY, NY  
LUIS V. GUTIERREZ, IL  
NYDIA M. VELAZQUEZ, NY  
MELVIN L. WATT, NC  
GARY L. ACKERMAN, NY  
KEN BENTSEN, TX  
JAMES H. MALONEY, CT  
DARLENE HOOLEY, OR  
JULIA GARBSON, IN  
BRAD BHERMAN, GA  
MAX SANDLIN, TX  
GREGORY W. MEEKS, NY  
BARBARA LEE, CA  
FRANK MASCARA, PA  
JAY INSLEE, WA  
JANICE D. SCHAKOWSKY, IL  
DENNIS MOORE, KS  
CHARLES A. GONZALEZ, TX  
STEPHANIE TUBBS JONES, OH  
MICHAEL E. CAPUANO, MA  
HAROLD E. FORD, JR., TN  
RUBEN HINOJOSA, TX  
KEN LUCAS, KY  
RONNIE SHOWS, MS  
JOSEPH CROWLEY, NY  
WILLIAM LACY CLAY, MO  
STEVE ISRAEL, NY  
MIKE ROSS, AR  
BERNARD SANDERS, VT

TERRY HAINES  
CHIEF COUNSEL AND STAFF DIRECTOR

October 10, 2002

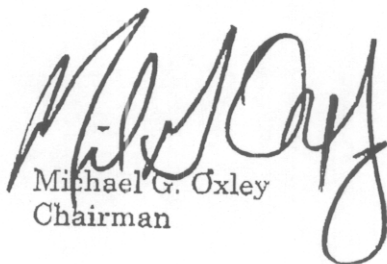
The Honorable Eduardo Aguirre  
Vice-Chairman and First Vice President  
Export-Import Bank of the United States  
811 Vermont Avenue, N.W.  
Washington, DC 20571

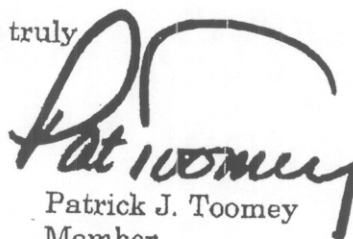
Dear Vice-Chairman Aguirre:

We appreciate the Export-Import Bank's efforts to develop economic impact procedures as directed by P.L. 107-156. These procedures are critical to the fulfillment of the Bank's mission of creating jobs and supporting the export of U.S. manufactured goods while ensuring that the transactions that Ex-Im pursues do not have an adverse impact on other sectors of the economy.

Attached are our comments to the September 6, 2002 discussion paper circulated by Ex-Im. We would like to commend you and your staff for all your hard work throughout this process.

Yours truly

  
Michael G. Oxley  
Chairman

  
Patrick J. Toomey  
Member  
Financial Services  
Committee

Attachments

## Comments to Ex-Im's September 6, 2002 Economic Impact Discussion Paper

1. Section 2(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)) address concerns related to outstanding orders and preliminary injury determinations. Specifically, this provision mandates that Ex-Im develop economic impact procedures to ensure that no loans and guarantees result in a significant increase in imports of substantially the same product covered by the preliminary determination and are likely to not have a significant adverse impact on the domestic industry.

Item I, Issue 5 of the September 6, 2002 discussion paper raises the question of how Ex-Im should interpret what, "substantially the same product" should be.

The statutory language, "substantially the same," clearly suggests that the provision is to apply more broadly than just to the specific products defined by an International Trade Commission (ITC) case. Ex-Im's new procedures must make clear that the provisions apply not only to the product as defined by the ITC case, but to additional products. The procedures should include substantially similar products, such as modifications to a product and those that are one or two steps upstream or downstream from the product subject to an order or determination.

The intent of this language is to ensure that the product in question is not further refined to avoid higher scrutiny or the automatic prohibition. In the case of steel, for example, an integrated producer makes hot rolled, cold rolled, and corrosion products all as part of one manufacturing process. In other words, each product can be an input for the next product in the process and can be sold in the open market. Thus, if a foreign producer is found to be dumping hot rolled steel in the United States, it should not receive an Ex-Im loan to help build a cold rolled plant. Otherwise, the company could simply take its excess hot rolled steel (that it can no longer dump in the U.S. market) and further process it in the new plant into cold rolled steel and then dump that product into the United States. Ex-Im must take care to avoid such situations and modify its procedures accordingly.

2. Section 2(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)) also addresses issues related to preliminary anti-dumping and countervailing duty (AD/CVD) determinations.

Item II, Issue 1 of the September 6, 2002 discussion paper questions whether the existing economic impact procedures need to be revised as applied to transactions involving support to an entity subject to preliminary AD/CVD determinations.

The intent of the changes to Section 2(3) was to raise the level of scrutiny on transactions subject to a preliminary AD/CVD orders. While Ex-Im traditionally has used \$10 million as a threshold level for raising the scrutiny of a transaction, this figure was specifically excluded from the legislation in order to ensure that most transactions subject to preliminary AD/CVD determinations would receive a higher level of review. This higher level of review must include a comment period prior to a final decision by the Board. We encourage Ex-Im to develop a broad scope when reviewing such transactions. However, Ex-Im should also remain mindful of the intent of the legislation to protect small businesses. We believe that in certain

situations small businesses should be able to qualify for an exemption from this additional level of review.

3. Section 2(e)(3) of the Export-Import Bank Act of 1945 permits Ex-Im to approve a transaction if, after making an economic impact assessment, in the judgment of the Board of Directors of the Bank, the short- and long-term benefits to industry and employment in the United States are likely to outweigh the short- and long-term injury to United States producers and employment of the same, similar, or competing commodity.

Item IV, Issue 1 of the September 6, 2002 discussion paper questions whether Ex-Im should modify the standards that must be met when applying the exception in Section 2(e)(3).

It is our position that this exception should be used in very limited situations. It is unlikely that the short and long term benefits to industry and employment in the United States are likely to outweigh the short and long term injury to the United States producers and employment of the same, similar, or competing commodity after the ITC issues an injury determination on a Section 201 investigation. The intent of section 2(e) is to ensure that Ex-Im is not injuring U.S. businesses by approving transactions that could have broad economic impact.